

OCT 23 2003

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

ROSENDO SONTAY-DELEON,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 02-73298

Agency No. A77-440-521

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted October 7, 2003
San Francisco, California

Before: GOODWIN and KLEINFELD, Circuit Judges, and JONES,** District
Judge.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The Honorable Robert E. Jones, Senior United States District Judge for the District of Oregon, sitting by designation.

The Immigration Judge (IJ) found that Sontay-DeLeon did not qualify for withholding of removal—Sontay-DeLeon did not prove that, if deported to Guatemala, there is a clear probability that he will be persecuted on account of his race or imputed political opinion.¹ Neither the incident between Sontay-DeLeon and the soldiers in the mountains nor the muggings in Guatemala City compels the conclusion that Sontay-DeLeon suffered persecution “on account of” his race or his imputed political opinion,² and substantial evidence on the record as a whole supports the IJ’s decision.³

Petition DENIED.

¹ See Immigration and Nationality Act (INA) § 242(b)(4)(B) (8 U.S.C. § 1252(b)(4)(B)); Ghaly v. INS, 58 F.3d 1425, 1429 (9th Cir. 1995) (noting that eligibility for withholding of removal requires a “showing that it is more likely than not that the alien will be persecuted if deported”).

² INA § 241(b)(3) (8 U.S.C. § 1231(b)(3)); See INS v. Elias-Zacarias, 502 U.S. 478, 482 (1992).

³ See Cedano-Viera v. Ashcroft, 324 F.3d 1062, 1063 n.1 (9th Cir. 2003) (explaining that under the Board of Immigration Appeals’ affirmance-without-opinion procedure, “the IJ’s decision is the final agency decision for purposes of judicial review”); 8 C.F.R. § 3.1(a)(7)(ii), (iii).